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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/083,405      | 02/27/2002  | Hidefumi Adachi      | 381AS/50989         | 7380             |

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EXAMINER

TO, TUAN C

ART UNIT PAPER NUMBER

3663

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Km

**Office Action Summary**

Application No.

10/083,405

Applicant(s)

ADACHI, HIDEFUMI

Examiner

Tuan C To

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-13 and 20 is/are allowed.
- 6) ☒ Claim(s) 14, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112(2)***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14, 18, and 19 are rejected under 35 U.S.C. 112 (second paragraph) as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 recites the limitation "the apparatus cancels said ACC function..." in line 7 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claims 18, and 19, which are dependent on claim 14, should be rejected as well.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 14, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (US 6081762A) and in view of Tanaka et al. (U.S. 6202780B1).

With respect to claim 14, the reference to Richardson et al (US '762A) discloses an adaptive cruise control apparatus comprising: means for sensing a speed of the vehicle (see abstract), means for detecting distance between the vehicle and the preceding vehicle (see Figure 1), means for detecting traveling environment (Richardson et al, abstract). Richardson et al. further discloses the following: "The cruise control is switchable between a cruise mode in which it will maintain a set cruising speed when the path in front of the vehicle is clear".

Richardson et al. do not disclose that the ACC function is cancelled when a driver performs a predetermined operation while the ACC function is operated.

The secondary reference to Tanaka et al. has been provided as teaching a cruise control system for a motor vehicle comprising: a device for canceling the operation of the constant-speed cruise control device when the shift manipulating device is operated from the automatic shift position to the manual shift position while the vehicle is running under constant-speed cruise control (Tanaka et al, column 2, lines 30-56).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Richardson et al. to include the teaching as taught by Tanaka et al. so that a driver, who operates the motor vehicle on city roads, is able to control the vehicle speed that might be changed but it is less than a speed limit given to a road.

With regard to claim 18, the reference to Tanaka et al., as represented above, teaches that ACC is cancelled by the operation of shift device (Tanaka et al, column 2, lines 30-56).

With regard to claim 19, Richardson patent discloses the cruise control system, including a distance sensor (14) for monitoring the distance between the host vehicle and a target vehicle (Richardson et al., column 2, lines 53-65).

***Allowable Subject Matter***

As previously indicated in the office action, claims 2, 3, 5, 6, 9-13, and 21 are set in a condition for allowance because the examiner has found none of the references teaches or fairly suggests the limitations in said claims. They are still allowable.

Claims 1 and 20 are allowable as well because the examiner has found none of the references in the record teaches the limitation as now claimed in claim 1.

Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 14, 18, and 19 have been considered but are moot in view of the new ground(s) of rejection.

The examiner has found the references to Richardson et al. and Tanaka et al. are combined to address the recited limitations of those claims.

***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (703) 308-6273. The examiner can normally be reached on from 8:00AM to 5:00PM.

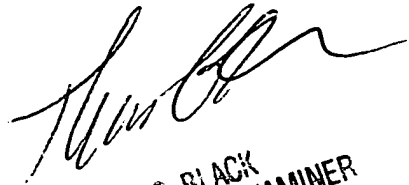
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-8233.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/tc

September 17, 2004

  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 3600